

Remarks

In the present application, claims 26-50 are pending. Claims 26-50 are rejected. Claims 1-25 have been previously canceled.

Claim Rejection - 35 U.S.C. § 103(a)

The Examiner has rejected claims 26-50 as being unpatentable under 35 U.S.C. § 103(a) over Walker. (U.S. Pat. No. 5,825,863), herein Walker. The Applicant includes the following comments to clearly distinguish the claimed invention over the art cited by the Examiner, and respectfully requests a favorable reconsideration of claims 26-50.

These rejections are respectfully disagreed with, and are traversed below.

It is well established law that in order for an obviousness rejection to be proper, the Patent Office must meet the burden of establishing a *prima facie* case for obviousness. Thus, as interpreted by the Courts, the Patent Office must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that in accordance with *In re Lee*, the prior art must contain a suggestion, teaching, or motivation for one of ordinary skill in the art to modify a reference or combine references; and that the proposed modification must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made¹.

Regarding claim 26, which recites:

“A method comprising:

receiving a request to credit a prepaid account associated with a subscriber, where the request indicates a particular tariff scheme from a plurality of tariff schemes, where a tariff scheme defines how calls are to be charged;

in response to crediting the prepaid account according to the request, setting a current tariff scheme associated with the subscriber to be the particular tariff scheme;

in response to a call being initiated by a subscriber, determining, by a processor, the current tariff scheme; and

¹ *In Re Fine*, 5 U.S.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Agmen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996); *In Re Sang Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002).

charging the prepaid account for the call based at least in part on the current tariff scheme” (emphasis added).

The Examiner acknowledges that Walker does not describe “a tariff scheme”. Clearly, Walker does not disclose or suggest “a request to credit a prepaid account” that “indicates a particular tariff scheme”, “in response to crediting the prepaid account according to the request, setting a current tariff scheme associated with the subscriber to be the particular tariff scheme” or “charging the prepaid account for the call based at least in part on the current tariff scheme” as in claim 1.

As Walker does not disclose or suggest all elements of claim 26, claim 26 is not made obvious by Walker. For at least this reason, claim 26 is in condition for allowance.

It is noted that the Examiner provides arguments regarding the teachings of “Block”, presumably Block (U.S. Pat. No. 5,960,416); however, if this is incorrect the Applicants respectfully request the Examiner provide a new Non-Final Office Action clarifying the reference.

Additionally, the Examiner argues “to incorporate the teachings of Block into the system and method of Walker”; however, Block is not presented as a basis for the rejection under 35 U.S.C. § 103(a). If the Examiner wishes to present such a rejection the Applicants respectfully request the Examiner provide a new Non-Final Office Action providing the basis for this rejection.

Regarding the combination of Walker and Block described: the Examiner asserts that “Block teaches a system and method for providing prepaid services to a customer. Block teaches a tariff scheme having a plurality of rates... See column 6, lines [sic] to column 7, line 8”. Additionally, the Examiner describes “incorporating the teachings of Block into the system and method of Walker in order to allow a subscriber to select a specific plan at an affordable rate”. However, this does not disclose or suggest how such a “plan” is selected.

As disclosed, “The Tariff Memory 76 stores information relating to the charges for various types of services, i.e., the tariff, as wells as taxes and flat rate charges” and that “The rates can, for example, be established by a tariff which can be **changed periodically by downloading tariff information** from, for example, a central office switch into the Tariff

Memory 76". Thus, Block teaches that the tariff may be changed "periodically" and that the "tariff information" is downloaded.

Clearly, there is no disclosure or suggestion that "**a request to credit a prepaid account**" "**indicates a particular tariff scheme** from a plurality of tariff schemes" as in claim 26.

Furthermore, since Block teaches the tariff may be changed "periodically" there is no disclosure or suggestion of "setting a current tariff scheme" "in response to crediting the prepaid account according to the request" as in claim 26.

As neither Walker nor Block disclose or suggest "a request to credit a prepaid account" "indicates a particular tariff scheme from a plurality of tariff schemes" and "setting a current tariff scheme" "in response to crediting the prepaid account according to the request" as in claim 26, the combination of Walker and Block (which the Applicants do not assert there is a motivation to so combine or that such a combination is feasible), herein Walker-Block, also does not disclose or suggest these elements of claim 26. As Walker-Block does not disclose or suggest all elements of claim 26, claim 26 is not made obvious by Walker-Block. For at least this reason, claim 26 is in condition for allowance.

As claims 35 and 45 recite similar language to that discussed above with reference to claim 26; claims 35 and 45 are likewise in condition for allowance. Claims 27-34, 36-44 and 46-50 depend upon claims 26, 35 and 45. For at least this reason, they are likewise in condition for allowance.

In light of the discussion above, the Applicant respectfully asserts that a prima facie case for obviousness was not presented as required by the court in *In re Lee*. As such, the Applicant respectfully requests that the Examiner reconsider and withdraw these rejections to claims 26-50.

For the foregoing reasons, the Applicant believes that each and every issue raised by the Examiner has been adequately addressed and that this application is in condition for allowance. As such, early and favorable action is respectfully solicited.



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